

11 JUN 2007



United States Patent and Trademark Office

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

GREGORY L BRADLEY  
MEDRAD INC  
ONE MEDRAD DRIVE  
INDIANOLA, PA 15051

|                                       |   |          |
|---------------------------------------|---|----------|
| In re Application of                  | : |          |
| Uber, III et al.                      | : |          |
| Application No.: 10/599,366           | : | DECISION |
| PCT No.: PCT/US05/07829               | : |          |
| Int. Filing Date: 11 March 2005       | : | ON       |
| Priority Date: 11 March 2004          | : |          |
| Attorney Docket No.: IN/04-002PCT.US  | : | PETITION |
| For: Energy Assisted Medical Devices, | : |          |
| Systems And Methods                   | : |          |

This is in response to the petition to revive under 37 CFR 1.137(b) filed on 26 September 2006.

### **BACKGROUND**

This international application was filed on 11 March 2005, claimed an earlier priority date of 11 March 2004, and designated the U.S. The 30 month time period for paying the basic national fee in the United States expired at midnight on 11 September 2006. This international application became abandoned with respect to the U.S. national stage for failure to timely pay the basic national fee.

### **DISCUSSION**

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding **requirement (1)**, the "required reply" requirement has been satisfied by the payment of the \$300.00 basic national fee on 26 September 2006.

Regarding **requirement (2)**, the \$1500.00 petition fee is being charged to counsel's Deposit Account No. 13-2530, per the authorization in the Transmittal Letter filed on 26 September 2006.

Regarding **requirement (3)**, the petition filed on 26 September 2006 does not identify the application to which it is directed, nor has it been signed by a licensed practitioner (nor by all of the applicants). Therefore, it would not be appropriate to conclude that requirement 3 has been satisfied.

Regarding **requirement (4)**, no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

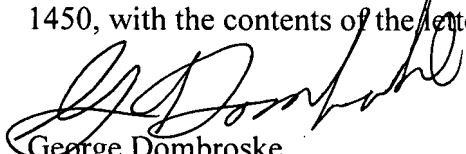
**DECISION**

The petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

Petitioner's Deposit Account 13-2530 is being charged for the \$1500.00 petition fee, as discussed above.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are available.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, P.O. Box 1450, Mail Stop PCT, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.



George Dombroske  
PCT Legal Examiner  
Office of PCT Legal Administration  
Tel: (571) 272-3283  
Fax: (571) 273-0459